Remarks

Entry of the above-noted amendments, reconsideration of the application, and allowance of all claims pending are respectfully requested. By this amendment, claims 1 and 21 are amended. These amendments to the claims constitute a bona fide attempt by applicants to advance prosecution of the application and obtain allowance of certain claims, and are in no way meant to acquiesce to the substance of the rejections. It is believed that the amendments made herein place the entire application in condition for allowance and/or better form for appeal. Support for the amendments can be found throughout the specification (e.g., page 10, lines 1-10), figures, and claims and thus, no new matter has been added. Claims 1-9 and 11-22 are pending.

Claim Rejections - 35 U.S.C. § 101

Claims 1-9, 11-15, and 21-22 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The Office Action stated that "computer-readable signal-bearing media" is not considered patentable subject matter because the language can be interpreted as a signal. Applicants have amended claims 1 and 21 to recite that the computer-readable signal-bearing media consists of one or more of a floppy disk, magnetic tape, CD-ROM, DVD-ROM, hard disk drive, or electronic memory.

Applicants respectfully request withdrawal of the § 101 rejections.

Claim Rejections - 35 U.S.C. § 112

Claims 1-9 and 11-22 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement and for allegedly failing to comply with the enablement requirement. These rejections are respectfully, but most strenuously, traversed.

The Office Action stated that the limitation of "legacy management system" was indefinite. The Office Action states:

> A term as commonly used in English does not necessarily render it definite... The examiner acknowledges that legacy is commonly used in English, however, when used in patent claims; it does not necessarily render it definite.

Applicants note that "legacy" appears in the claim language of the previously cited US Patents and US Patent Application Publications and further submit that one skilled in the art would recognize a legacy management system. Generalized definitions of legacy systems (e.g., http://en.wikipedia.org/wiki/Legacy_system) are well known and are commonly applied to the software arts without undue experimentation. If a telephone conference with or affidavit from one or more of the inventors would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney or agent.

Withdrawal of the § 112 rejections is therefore respectfully requested.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 16, and 21 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Baughman (U.S. Patent No. 6,408,399). Claims 1-9 and 11-22 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Anderson (U.S. Patent App. Pub. No. 2003/0058796). These rejections are respectfully, but most strenuously, traversed.

Claim 1 recites that "the first manager component of the legacy management system and the second manager component ... are configured to *concurrently share management responsibility* for the software and/or hardware entity and that the first and second manager components are configured for individual management responsibilities.

Baughman (column 2, lines 23-29) discloses:

> In the active state, the applications (software) residing on the computer are running and ready to accept and process data. In the standby state, certain applications are running, however, data is not accepted or processed. A primary function of a computer in the standby state is to monitor the other computers in the system and itself, and to assume an active state when necessary.

Baughman discloses that the computer in the standby state (e.g., computer 11) does not accept or process data. It is unclear how a computer that does not accept or process data can perform management operations in order to concurrently share management responsibility. The standby computer monitors the other computers (e.g., computer 10) and itself. Baughman fails to disclose that both the active computer and the standby computer perform management operations on a software and/or hardware entity.

Baughman (column 5, lines 18-23) discloses:

> The system manager 120 and 130 also checks for and corrects errors, such as both computers 10 and 11 assuming an active state, no computer 10 or 11 in an active state, the active computer unable to access the shared disks 12 and 13, and a non-active computer with access to the shared disks 12 and 13.

Baughman discloses that an instance where both computers 10 and 11 have access to the shared disks is an error condition. Accordingly, the computers are not configured to concurrently share management, but to instead take full control. Baughman teaches away from concurrent shared management responsibility of the disks.

The Office Action (page 18, section 3) states:

> "One interpretation of the meaning of concurrent is acting in conjunction, or cooperating. Under this interpretation, an active/standby setup fulfills a cooperating configuration."

The Office Action's discussion of "concurrent" has omitted a portion of the claim limitation. Claim 1 recites "concurrently share". The active and standby components disclosed

by Baughman do not concurrently share management responsibility and instead take full control at alternate times, as discussed above.

Baughman also fails to make any mention of a management component of a legacy management system. In contrast, Baughman discloses that the second computer replicates the processing capabilities of the active computer (col. 1, lines 24-36).

Anderson (paragraph 19) discloses:

> ... The signaling manager receives its working instructions from the traffic manager and from the provisioning manager for each packet switch, router and interface access device of the packet network, which, among other things, enables the signaling manager to set up and dynamically change virtual circuits, paths and channels on a real-time basis...

Anderson discloses that the signaling manager receives instructions from the traffic manager and the provisioning manager. Accordingly, the signaling manager does not share management responsibility with either the traffic manager and provisioning manager but merely acts upon their instruction as an intermediary. Anderson fails to disclose that any of the signaling manager, the traffic manager, and the provisioning manager are from a legacy management system. Anderson fails to disclose the first manager component of the legacy management system and the second manager component, that comprises high availability services system software, that are configured to concurrently share management responsibility for the software and/or hardware entity.

The Office Action's citations to Baughman and Anderson all fail to meet at least one of applicants' claimed features. For example, there is no teaching or suggestion in the Office Action's citations to Baughman and Anderson of the first manager component and the second manager component that are configured to concurrently share management responsibility for the software and/or hardware entity, as recited in applicants' independent claim 1.

Withdrawal of the § 102 rejections is therefore respectfully requested.

In view of the above amendments and remarks, allowance of all claims pending is respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney or agent.

Respectfully submitted,

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